

1 THE HONORABLE JOHN C. COUGHENOUR
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7 UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON
9 AT SEATTLE

10 BRYAN J. PARENT,

11 v.
12 Plaintiff,

13 ISLAND COUNTY SUPERIOR COURT,

14 Defendant.

CASE NO. C21-0278-JCC

MINUTE ORDER

15 The following Minute Order is made by direction of the Court, the Honorable John C.
16 Coughenour, United States District Judge:

17 This matter comes before the Court *sua sponte*. On March 4, 2021, Magistrate Judge
18 Michelle L. Peterson granted Plaintiff's motion to proceed *in forma pauperis* (IFP) and
19 recommended the Court review Plaintiff's complaint under 28 U.S.C. § 1915(e)(2)(B) prior to
20 the issuance of a summons. (Dkt. No. 4.)

21 Pursuant to 28 U.S.C. § 1915(e)(2)(B), the Court must dismiss an IFP complaint if the
22 action fails to state a claim, raises frivolous or malicious claims, or seeks monetary relief from a
23 defendant who is immune from such relief. To state a claim for relief, "a complaint must contain
24 sufficient factual matter, accepted as true, to 'state a claim to relief that is plausible on its face.'" "*Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (quoting *Bell Atl. Corp. v. Twombly*, 550 U.S. 544,
25 570 (2007)). A claim is facially plausible "when the plaintiff pleads factual content that allows

1 the court to draw the reasonable inference that the defendant is liable for the misconduct
 2 alleged.” *Id.* “A pleading that offers ‘labels and conclusions’ or ‘a formulaic recitation of the
 3 elements of a cause of action will not do.’” *Id.* (quoting *Twombly*, 550 U.S. at 555). “Dismissal
 4 can [also] be based on the lack of a cognizable legal theory.” *Balisteri v. Pacifica Police Dep’t.*,
 5 901 F.2d 696, 699 (9th Cir. 1988). Because Mr. Parent is proceeding *pro se*, the Court construes
 6 his complaint liberally. *Hebbe v. Pliler*, 627 F.3d 338, 342 (9th Cir. 2010).

7 Mr. Parent brings this suit under 42 U.S.C. § 1983 against the Island County Superior
 8 Court, Island County Deputy Prosecutor Ian Michels Slettvet, Island County Superior Court
 9 Clerk Debra Van Pelt, and Island County Superior Court Judge Alan R. Hancock. (Dkt. No. 5 at
 10 1–2.) Although Mr. Parent’s allegations are difficult to decipher and lack factual detail, he claims
 11 that his Sixth Amendment right to a fair trial was violated in August 2018. (*Id.* at 6–7 (alleging
 12 that “the court violated process in procedure . . . with a non valid waiver of rights to pro se
 13 litigant” and that “I will show . . . court procedure violation that the sup[erior court] made during
 14 Mr. Parent’s trial”)). As relief, he seeks full exoneration of his criminal history as well as
 15 monetary damages for false imprisonment, including ten million dollars in punitive damages. (*Id.*
 16 at 7.)

17 Mr. Parent’s complaint does not contain grounds showing that he is entitled to relief.
 18 First, his complaint offers no factual detail from which the Court might reasonably infer a
 19 plausible claim for relief based on a violation of his constitutional rights. He alleges only that “I
 20 will show this Court . . . [the] court procedure violation that the sup[erior court] made during Mr.
 21 Parent’s trial,” (Dkt. No. 7 at 7, but Federal Rule of Civil Procedure 8 “demands more than an
 22 unadorned, the-defendant-unlawfully-harmed-me accusation,” *Iqbal*, 662 U.S. at 678 (citing
 23 *Twombly*, 550 U.S. at 555)).

24 Second, the claims in his complaint are likely barred by *Heck v. Humprey*, 512 U.S. 477,
 25 486–87 (1994). Under *Heck*, if a judgment in favor of a plaintiff on a civil rights action
 26 necessarily will imply the invalidity of his conviction or sentence, the complaint must be

1 dismissed unless the plaintiff can show that the conviction or sentence already has been
 2 invalidated. 512 U.S. at 486–87. “[A] court may properly dismiss a *Heck*-barred claim under
 3 Rule 12(b)(6) if there exists an obvious bar to securing relief on the face of the complaint.”
 4 *Washington v. Los Angeles Cty. Sheriff’s Dept.*, 833 F.3d 1048, 1056 (9th Cir. 2016) (finding
 5 *Heck* deficiency plain from the face of the complaint where plaintiff sought a “recall” of his
 6 allegedly unlawful sentence). Here, it appears Mr. Parent is alleging that his constitutional rights
 7 were violated by Defendants’ conduct in relation to a criminal trial, and he seeks “exoneration.”
 8 It therefore appears that his conviction is still extant and success on his claims would imply the
 9 invalidity of the conviction resulting from his criminal trial.

10 Even if Plaintiff’s claims are not barred by *Heck*, Mr. Parent seeks monetary relief from
 11 defendants who are entitled to immunity. First, Judge Hancock is entitled to judicial immunity.
 12 Judges are absolutely immune from liability for acts “done by them in the exercise of their
 13 judicial functions.” *Miller v. Davis*, 521 F.3d 1142, 1145 (9th Cir. 2008) (quoting *Bradley v.*
 14 *Fisher*, 80 U.S. 335, 347 (1871)). As the Ninth Circuit has reiterated, a judge remains immune
 15 from suit even if the action he took was in error, done maliciously, or in excess of his authority.
 16 *Sadoski v. Mosley*, 435 F.3d 1076, 1079 (9th Cir. 2006). The exception is that judicial immunity
 17 does not extend to acts taken in the “clear absence of all jurisdiction.” *Stump v. Sparkman*, 435
 18 U.S. 349, 356–57 (1978). Mr. Parent’s allegations relate to alleged procedural violations that
 19 occurred in court, and he does not allege any facts giving rise to the inference that Judge
 20 Hancock took action in the clear absence of all jurisdiction. Therefore, as pled, Mr. Plaintiff’s
 21 claims against Judge Hancock are not cognizable. Similarly, Debra Van Pelt as the Clerk of the
 22 Island County Superior Court is absolutely immune from suit under the doctrine of quasi-judicial
 23 immunity. *Mullis v. U.S. Bankr. Ct. for Dist. of Nevada*, 828 F.2d 1385, 1390 (9th Cir. 1987)
 24 (“Court clerks have absolute quasi-judicial immunity for damages for civil rights violations when
 25 they perform tasks that are an integral part of the judicial process.”).

26 Further, Defendant Ian Michels Slettvet is entitled to prosecutorial immunity. “Immunity

1 extends to protect a prosecutor who acts within his or her authority and in a quasi-judicial
 2 capacity.” *Ashelman v. Pope*, 793 F.2d 1072, 1076 (9th Cir. 1986) (citing *Imbler v. Pachtman*,
 3 424 U.S. 409, 430–31 (1976)). Where a prosecutor acts as an advocate “in initiating a
 4 prosecution and in presenting the state’s case,” absolute immunity applies. *Ybarra v. Reno*
 5 *Thunderbird Mobile Home Village*, 723 F.2d 675, 678 (9th Cir. 1984) (quoting *Imbler*, 424 U.S.
 6 at 430–31). Mr. Parent’s allegations relate to alleged procedural violations during a criminal trial,
 7 and therefore immunity applies.

8 Lastly, Mr. Parent’s claims against Island County Superior Court are barred by the
 9 Eleventh Amendment. “Federal courts are without jurisdiction to entertain suits seeking civil
 10 damages against a state.” *Prod. & Leasing, Ltd. v. Hotel Conquistador, Inc.*, 709 F.2d 21, 21 (9th
 11 Cir. 1983) (per curiam). The Ninth Circuit has explained that state county courts are “arms of the
 12 state for Eleventh Amendment purposes.” *See Simmons v. Sacramento Cty. Super. Ct.*, 318 F.3d
 13 1156, 1161 (9th Cir. 2003); *Penry v. Thurston Cty.*, 89 F. App’x 619, 620 (9th Cir. 2004) (“The
 14 Thurston County Superior Court is entitled to Eleventh Amendment immunity as an arm of the
 15 state.”). Because the Island County Superior Court is an arm of the state, Mr. Parent’s claims
 16 against it are not cognizable.

17 Although the Court finds that Mr. Parent’s complaint fails to state a claim upon which
 18 relief can be granted and seeks monetary relief from defendants who are immune from such
 19 relief, it will not dismiss a complaint unless “it is absolutely clear that no amendment can cure
 20 the [complaint’s] defects.” *Lucas v. Dep’t of Corr.*, 66 F.3d 245, 248 (9th Cir. 1995) (citation
 21 omitted). The Court will provide Mr. Parent with time to file an amended complaint curing the
 22 deficiencies identified above. The Court ORDERS Mr. Parent to file an amended complaint
 23 within twenty-one (21) days of the date of this order, if he chooses to do so. In his amended
 24 complaint, he must include a short and plain statement of the facts supporting each claim against
 25 each named Defendant, a basis for the Court’s jurisdiction, the relief Plaintiff seeks, and a
 26 cognizable theory for that relief. The Clerk is DIRECTED to mail a copy of this order to

Plaintiff.

DATED this 17th day of March 2021.

William M. McCool

Clerk of Court

s/Paula McNabb

Deputy Clerk